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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,121	02/03/2006	Kenta Hatano	1163-0543PUS1	3023
2292 7590 11/05/2008 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER DESAL, NAISHADH N				
ART UNIT 2834		PAPER NUMBER		
NOTIFICATION DATE 11/05/2008		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/567,121

Applicant(s)

HATANO ET AL.

Examiner

NAISHADH N. DESAI

Art Unit

2834

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2008.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
4a) Of the above claim(s) 2 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1, 3 and 4 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 03 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/S5108)
Paper No(s)/Mail Date 2/3/2006
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Species A in the reply filed on 9/8/2008 is acknowledged. The traversal is on the ground(s) that it is unclear to applicant how the restriction was made by examiner. This is not found persuasive because the species restriction made by examiner is in view of applicant's specification and drawings and claim language. It is clear for example from figures 2-7 that there are different embodiments of which some may or may not directly abut the shaft or the inner race (aka inner wheel according to paragraph [0014] of applicant's specification) of the bearing. The requirement is still deemed proper and is therefore made FINAL.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

3. The information disclosure statement (IDS) submitted on 2/3/2006 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1,3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sakakibara (JP 2002-347631) in view of Miyoshi et al (US 2001/0002546).

4. Regarding claim 1, Sakakibara teaches:

A motor-bearing holding structure (abstract and Fig 2) comprising:

a metallic member (Fig 2,17 and 21) that is integrally molded with this rotor; and
a bearing that is rotatably held to the rotor (Fig 2,3,5) through this metallic member (Fig 2,17 and 21)

Sakakibara does not literally teach the use of "a molded rotor"

Miyoshi et al (Fig 1 and paragraphs [0005-7]) teaches an EGR device wherein the techniques of molding are used and clearly discussed. Examiner also notes that the method of molding is very well known in the art. It would have been obvious to a person having ordinary skills in the art at the time the invention was made to modify the device of Sakakibara with the teachings of Miyoshi et al to make an EGR device wherein the rotor and bearing support structure are molded together. The motivation to do so would be that it would simplify assemblage, reduce parts, complexity and improve efficiency of the device.

Sakakibara discloses the claimed invention except for mentioning that the rotor and bearing insert/support member are is an integrated unit. It would have been obvious to one having ordinary skills in the art at the time the invention was made to combine the rotor and the bearing insert/support member into an integrated unit, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S 164 (1893).

In regards to claim 1 the method of making limitations are not germane to the patentability of the apparatus and have not been given patentable weight. The patentability of the product does not depend on its method of production. If the product in the product by process claim is the same or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process". In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966(Fed. Cir. 1985). In this instance the case it is obvious that molding the rotor and metal insert can be done together or separately, as Sakakibara teaches bearing insert/support structure and Miyoshi et al teaches the use of molding to make a EGR device.

5. Regarding claim 3, Sakakibara teaches (Fig 5,17,18) a washer that is fitted to the metallic member protruding from the rotor is secured to the metallic member under conditions where the washer is pressed against the bearing.

Also Miyoshi et al (Fig 1,28) teaches the use of a plate spring which directly abuts the bearing.

6. Regarding claim 4, Sakakibara teaches (Fig 2,26 and 29) that the molded part of the metallic member is provided with a concave portion.

Sakakibara does not explicitly teach the metallic member is provided with a convex portion. Sakakibara and Miyoshi et al discloses the claimed invention except for the shape or size of the metallic member to be convex. It would have been an obvious matter of design choice to make the metallic member have a convex shape, since such a modification would have involved a mere change in the shape of a component. A change in shape is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955)

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO 892 for details.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to NAISHADH N. DESAI whose telephone number is (571)270-3038. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Quyen Leung can be reached on (571) 272-8188. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dang D Le/
Primary Examiner, Art Unit 2834

/Naishadh N Desai/
Examiner, Art Unit 2834